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In re Application of : DECISION ON  
Jean-Michael HODE :  
Application No.: 10/574,291 :  
PCT No.: PCT/EP04/052368 :  
Int. Filing Date: 30 September 2004 : PETITION UNDER  
Priority Date: 03 October 2003 :  
Attorney's Docket No.: 4590-506 :  
For: GENERATION OF AGITATION NOISE :  
ACCORDING TO A PREDETERMINED HISTOGRAM : 37 CFR 1.181

This Decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181 AND RECONSIDERATION OF HOLDING OF ABANDONMENT" filed on 16 January 2009, which request that the above-identified application's declaration was timely filed, and the withdrawal of the Notice of Abandonment mailed on 30 July 2007.

### **BACKGROUND**

In a decision from this on Office on 18 November 2008, the petition filed under 37 CFR 1.181 was dismissed. The decision stated that applicants did not meet item (3) under 37 CFR 1.8(b) because no statement was provided from a person that had first hand knowledge.

On 16 January 2009, petitioner filed the current renewed petition with included a statement from Candance Chambliss.

### **DISCUSSION**

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants has now satisfied item (3), thus satisfying item (1) – (3) under 37 CFR 1.8(b).

The certificate of mailing under 37 CFR 1.8 is valid for the declaration because a statement has been provided by Candance CHambliss and can be use as a basis for a timely filing in response to the Notification of Missing Requirements mailed on 13 November 2006.

Accordingly, petitioner's response- the declaration filed on **22 November 2006**- is considered timely and is the date of receipt at USPTO.


The date of receipt for the Declaration is **22 November 2006**.

### **CONCLUSION**

The petition under 37 CFR 1.181 is **GRANTED**.

The NOTICE OF ABANDONMENT, mailed 30 July 2007 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of this application as **22 November 2006**.

  
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